COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts	D.T.E. 01-20

AT&T'S OPPOSITION TO VERIZON'S APPEAL FROM THE HEARING OFFICER'S RULING ON VERIZON'S MOTION TO COMPEL AND OPPOSITION TO VERIZON'S MOTION TO STRIKE THE HAI 5.2A-MA MODEL OR, IN THE ALTERNATIVE, AT&T'S CROSS-MOTION TO STRIKE VERIZON'S RECURRING COST MODEL

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Introduction.

AT&T Communications of New England., Inc. ("AT&T") respectfully urges the Department to deny Verizon's appeal from portions of the recent Hearing Officer ruling regarding a motion to compel filed by Verizon. The portions of the ruling challenged by Verizon were correctly decided, and Verizon's assertions to the contrary on appeal are without merit.

Furthermore, Verizon's demand that the Department "must either" grant its appeal "or strike the prefiled testimony relating to the HAI 5.2a-MA" model, *see Verizon's Appeal* at 7, is without merit and should be rejected. Alternatively, AT&T moves that the Department strike Verizon's recurring cost models and all associated prefiled testimony, exhibits, and workpapers because Verizon has failed to provide relevant information needed to ensure that Verizon's model and all of its inputs may be reviewed and tested by the Department and the parties. If Verizon's motion to strike the HAI model had merit (which it does not) then Verizon's own recurring cost models would have to be stricken on the same grounds, which of course would leave the Department with no basis whatsoever for setting new UNE rates for Massachusetts.

Argument.

I. THE HEARING OFFICER PROPERLY DENIED VERIZON'S REQUESTS FOR VOLUMINOUS BUT IRRELEVANT INFORMATION ABOUT AT&T'S NETWORK.

Verizon moved to compel responses to a lengthy series of 32 questions, many with elaborate subparts, that asked for detailed information about recent equipment purchases by AT&T and other information regarding investments in or the capacity of AT&T's long distance network. *See Verizon's Motion to Compel* at 5-9, concerning requests VZ-ATT 1-38, 1-39, 1-70 to 1-79, 1-114 to 1-128, 1-131, 1-135, 2-1, 2-15, and 2-91. AT&T objected to these requests on the ground that they are overbroad, unduly burdensome, irrelevant, and not reasonably calculated

to lead to the discovery of admissible evidence. The Hearing Officer properly denied Verizon's motion to compel responses to these requests. *Hearing Officer's Ruling* at 10-11.

Verizon's sole argument as to why it should be entitled to obtain voluminous information about AT&T's embedded network is the conclusory and unsupported assertion that any difference between historic experience in AT&T's network and the forward-looking costs calculated by the HAI 5.2a-MA model "would undermine the credibility of that model." *Verizon's Appeal* at 5. This assertion is incorrect.

The Federal Communications Commission ("FCC") has "reject[ed] the explicit or implicit assumption of most LEC commenters that company specific values, which reflect the costs of their embedded plant, are the best predictor of the forward-looking cost of constructing the network investment… . … [To the contrary,] the forward-looking cost of constructing a plant should reflect costs that an efficient carrier would incur, not the embedded cost of the facilities, functions, or elements of a carrier."[1] Thus, none of the requested information about AT&T's network is relevant here. This proceeding is concerned with the modeling of a forward-looking local services network under the FCC's TELRIC methodology. Because AT&T does not have a forward-looking local services network in place, information regarding AT&T's network cannot possibly be of any relevance to the issues in this case or to Verizon's evaluation of the HAI model. Tellingly, Verizon has not sought similar information from any other party in this docket. Verizon is trying to distract the Department and tie up AT&T's limited resources in fruitless discovery exercises.

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[1] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, and *Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket No. 97-160, Tenth Report and Order, No. FCC 99-304, ¶ 90, (rel. Nov. 2, 1999) ("FCC's Tenth USF Order"). See also *Id.*, Fifth Report and Order, No. FCC 98-279, ¶ 66 (rel. Oct. 28, 1998).

In any case, Verizon is wrong when it claims to have an absolute right to discover any information that may be of even the slightest theoretical relevance. *Cf. Verizon's Appeal* at 5-6. The Department has made clear that it may and will protect parties against the undue burden of responding to discovery requests that seek irrelevant or marginally relevant information, stating that:

> Although we consider discovery a useful tool for narrowing and defining issues for adjudication, we are careful to guard against the use of discovery as a fishing expedition for unnecessary information. We recognize that the establishment of limitations and restrictions may be necessary to protect parties from the abuses of unreasonable discovery.

New England Telephone and Telegraph Company, D.P.U. 91-63-A (1991), at 11. Similarly, under the rules of civil procedure, a judge may refuse to allow discovery that is "of little or no relevance" or of "marginal significance," and that "would not be essential or helpful" to resolution of the issues in the case. *Commonwealth* v. *Fall River Motor Sales, Inc.*, 409 Mass. 302, 308-309 (1991). Discovery requests for information that would be of marginal relevance may be denied in order to protect against "undue burden or expense." Mass. R. Civ. P. 26(c). These same principles guide discovery in proceedings before the Department. *See* 220 C.M.R. § 1.06(6)(c)(2).

In this regard, the Department should take note of Verizon's patent hypocrisy, as Verizon takes inconsistent positions depending upon whether it is seeking or resisting discovery. For example, on July 2, 2001, Verizon objected to CC-VZ 10-9. That request asked whether "any of Verizon's current plant-in-service [is in use] beyond the economic lives [Verizon] proposes for depreciation in this case." Verizon objected, asserting that the request "is not reasonably calculated to lead to the discovery of admissible evidence" because Verizon's "historical plant-in-service does not form the basis of the forward-looking TELRIC investments underlying the

UNE studies at issue in this proceeding." If Verizon's own existing network is not relevant to this case, it is hard to see how AT&T's network could possibly be relevant.

More recently, in a letter dated July 10, 2001, Verizon again refused to provide information about its own network requested in ATT-VZ 14-10, 14-11, 14-14, and 14-15. The first two of these questions asked Verizon to provide the details for the ten largest hardwired and plug-in (respectively) equipment installations in Massachusetts that are reflected in the 1998 DCPR data used to developed the EF&I factor used in Verizon's cost studies. The second two sought similar information regarding the ten largest installations in each category that underlie Verizon's power factors. Thus, these requests seek information regarding recent equipment purchases by Verizon in order to be able to test the validity of data actually relied upon and used by Verizon in its own cost studies. In its letter, Verizon asserts that:

> [T]he DCPR compiles only summary data associated with material price and total installed cost. Accordingly, providing 'details' about the installations would require a time-consuming search of paper and electronic documents to identify the individual projects and to develop additional information about those installations.

See July 10, 2001, letter from Bruce Beausejour to Ken Salinger (Attachment A to AT&T's Opposition to Verizon's Motion to Compel).

Thus, Verizon asserts that it is just too burdensome for it to gather and provide information regarding specific investments in its own network, and refuses to do so even when that data is actually used in Verizon's own cost studies. But it has the temerity at the same time to file and pursue on appeal a motion seeking to compel AT&T to undertake far more burdensome and extensive investigations to develop information about AT&T's network, despite the fact that this data is not used in the HAI 5.2a-MA model and has no relevance to these proceedings. These requests are inappropriate, and no further response should be required.

To be clear: even though information about Verizon's existing network will often be relevant to this proceeding, especially given Verizon's heavy reliance in its own cost studies on historical information regarding its embedded costs, information about particular facets of AT&T's network is not at all relevant. As the Hearing Officer properly found: "[W]hile Verizon's model in this proceeding incorporates historical embedded costs, … the HAI 5.2a-MA Model is not based on AT&T's historical costs, and thus the information Verizon seeks would not serve as any useful benchmark." *Hearing Officer's Ruling* at 10-11. The Hearing Officer's ruling was correct with respect to these requests.

II. AT&T HAS PROVIDED FULL AND ADEQUATE ACCESS TO ALL INPUT DATA UNDERLYING THE HAI 5.2A-MA MODEL'S OUTSIDE PLANT CALCULATIONS, CONSISTENT WITH PROCEDURES ENDORSED BY THE FCC, AND IN CONTRAST TO VERIZON'S WITHHOLDING OF ANALOGOUS DATA.

In its motion to compel, Verizon stated that it wanted the opportunity to review data compiled by PNR Associates, Inc. (now TNS Telecoms), including geocoding data obtained by PNR from Metromail, Inc., and Dun & Bradstreet. *Verizon's Motion to Compel* at 13-14. In response, AT&T reiterated its long-standing offer to help Verizon obtain access to this data through PNR. AT&T's offer is consistent with the manner in which access to this information has been provided around the country, including in the FCC's USF proceeding. The Hearing Officer properly ruled that AT&T need not turn over to Verizon proprietary data that is the intellectual property of other companies, and instead directed that AT&T "must facilitate any arrangements necessary for Verizon to obtain the data," and thereby ensure that the "HAI 5.2a-MA Model and its inputs are sufficiently available for public review," in a manner consistent with the procedures followed by the FCC in its universal service docket. *Hearing Officer Ruling* at 11-12. To date, Verizon has never bothered to contact AT&T to seek access to this data through TNS (formerly PNR). Incredibly, Verizon instead appeals this aspect of the

Hearing Officer's ruling and argues that AT&T should be ordered to "produce" data that Verizon knows can be viewed and analyzed but not "produced" because it is the intellectual property of others. *Verizon's Appeal* at 6-7. Verizon's appeal of this aspect of the Hearing Officer's ruling is without merit. The facts make clear that Verizon's appeal is not made in good faith, and should be rejected.

To evaluate Verizon's claim on appeal, one needs to understand: (i) the extent and nature of the voluminous information already filed by AT&T and provided to all parties to support its calculation of the forward-looking cost of outside plant; (ii) the nature of the secondary geocoding data that is at issue here, and Verizon's ability to access and analyze that data if it truly wanted to do so; (iii) the fact that Verizon's access to this data regarding individual customer locations is exactly the same access that the FCC deemed to be appropriate and sufficient in its USF proceeding; and (iv) the fact that it is Verizon, and not AT&T, that has failed to provide access to the input data that underlies its recurring cost model.

A. AT&T Has Already Filed Substantial Volumes of Data Regarding the Inputs Used by HAI 5.2a-MA to Calculate the Forward-Looking Cost of Outside Plant.

On May 8, 2001, AT&T filed with the Department and served upon Verizon a CD-ROM of the HAI 5.2a-MA model which includes detailed electronic data for each of the many small customer clusters located throughout Massachusetts, including for each cluster detailed underlying demographic, topographic, and geologic data along with calculations regarding loop length and other outside plant characteristics. The HAI model divides the actual residential and business customers throughout Massachusetts into 4,256 small clusters, based on their actual geographic distribution. For the past three months Verizon has had detailed information for each cluster showing, among other things: the location, size, terrain, and geology of each cluster; the number of households and type of housing units; the number of business firms and employees;

the number of telephone lines per cluster by type, including by residential lines, total business lines, single business lines, special access lines, and public lines; and the total strand distance for each cluster. *See* Direct Testimony of Robert Mercer at 41, and Ex. RAM-2, the "HAI Model Release 5.2a-MA Model Description" at 33-34. Dr. Mercer's testimony and the accompanying exhibits also explain how this very detailed information for each cluster is used to estimate the quantity of each component of outside plant that would be needed in a forward-looking network to serve the customers in that cluster.

This detailed information for each cluster is derived from information that specifies the actual location of the customers in each cluster. The actual geocoded location is known for 87.5 percent of all customer locations in Massachusetts. *See* Direct Testimony of Robert A. Mercer n Behalf of AT&T, filed in DTE 01-20 on May 8, 2001 ("Mercer Direct") at 39. The remaining 12.5 percent of customer locations are estimated by TNS using the exact same road surrogating methodology that was endorsed and adopted by the FCC. *See* Mercer Direct at 39-40; *FCC's Tenth USF Order* ¶¶ 40-47.

TNS has a proprietary National Access Line Model ("NALM") that "uses a variety of information sources, including: survey information, the LERG, Business Location Research ("BLR") wire center boundaries; Dun & Bradstreet's business database; Metromail's residential database; Claritas's demographic database; and U.S. Census Bureau estimates. [TNS's] model uses these sources in a series of steps to estimate the number of residential and business locations, and the number of access lines demanded at each location. The model makes these estimates for each Census Block, and for each wire center in the United States." *FCC's Tenth USF Order* ¶ 51; *see also* Mercer Direct Ex. RAM-2, HAI 5.2a-MA Model Description, at 24-34. TNS further refines this data to identify small geographic clusters of actual customers.

It is the data at this refined and very detailed level that AT&T has filed with the Department and long ago provided to Verizon. This cluster database provides sufficient information for Verizon to plot the location and density of customers reflected in the HAI 5.2a-MA model. Verizon could then compare the resulting plots with its own information regarding its customer locations or distribution, or doing any other analysis of this detailed customer data that it may wish.

Thus, AT&T has already filed substantially more detailed underlying data regarding the HAI 5.2a-MA model than Verizon has been willing or able to provide in support of its alternative cost model. In addition, AT&T has offered to facilitate access to even more detailed data.

B. Verizon May Review and Manipulate the Underlying Geocoding Data Through TNS, and Could Have Done So At Any Time Over the Last Three Months.

AT&T did not file the atomistic demographic data regarding individual residential and business customers, because that data is private intellectual property that may not be released. *See also FCC's Tenth USF Order* ¶ 47 n. 474, ¶ 60. However, AT&T has offered to help Verizon, any other party, or the Department obtain electronic access to this detailed data regarding individual customers that would permit any interested party to review, analyze, and manipulate that data.

Verizon is well familiar with this opportunity. In all other states where the issue of access to the geocoding data has arisen, parties wishing to view the data have had to make arrangements to do so through PNR. For example, in earlier proceedings in both Maine and New Hampshire, AT&T informed Verizon (Bell Atlantic at the time) that it could not turn over these proprietary materials, and that Verizon would need to obtain such information directly from PNR. AT&T then helped make arrangements for Verizon representatives to visit PNR in

Pennsylvania to view the data it had requested and to obtain technical information from PNR staff regarding the development of that data. At least two Verizon representatives took advantage of those opportunities in Maine and New Hampshire UNE rate proceedings. In the recent New York UNE cost proceedings, AT&T again explained that the data at issue is commercially available from PNR, and that AT&T would help make arrangements for Verizon to review the data at PNR. *See, e.g.*, NY PSC Case 98-C-1357, response to BA-ATT/MCI-1003. It appears that in New York Verizon never bothered to avail itself of this opportunity. As explained in the following section, these procedures were deemed satisfactory by the FCC.

It would be even easier for Verizon to review and analyze this customer location information today because TNS, PNR's successor-in-interest, has agreed to offer remote electronic access to the relevant materials. Verizon may review the individual customer data in the NALM, and may use the software of its choosing to analyze or manipulate that data in any way that it chooses. Though the individual customer data is highly proprietary and may be viewed but not taken away, Verizon could run and take away reports, calculations, mappings, or analyses of its choice with any software it wishes to use. AT&T remains ready to help facilitate such arrangements, as it has for months. If Verizon truly want to see the data, rather than pretend that AT&T was being uncooperative, Verizon could have already done so.

Verizon's position is also patently hypocritical, as Verizon has refused to provide materials on the ground that such materials are available directly to the other parties through alternative means. For example, ATT-VZ 2-41 asks Verizon to "provide a copy of all planning documents, engineering guidelines, manufacturer's specifications and the like that Verizon uses in planning and engineering its interoffice fiber ring network." Verizon responded:

> Verizon MA does not use engineering guidelines for planning and engineering its interoffice fiber ring network. ***Manufacturers specifications can be obtained from the manufacturers themselves***.

See Verizon Response to ATT-VZ 2-41 (emphasis added). Verizon's recalcitrance is indefensible: it has refused to provide manufacturers' specifications even though it is legally free to do so. In contrast, the geocoded customer location data compiled by TNS is the intellectual property of TNS and other companies that AT&T does not have and may not hand over to Verizon. In further contrast, AT&T remains ready to facilitate Verizon's review and analysis of the individual customer location information available through TNS, should Verizon actually want to view it.

Verizon's behavior over the past three months suggests, however, that it is less interested in reviewing this data, and more interested in trying to create the completely false impression that AT&T has been withholding information or that the HAI 5.2a-MA model is based on hidden data. That is simply not true. To the contrary, the availability of means to access the data used to develop inputs used in the HAI model is completely consistent with the procedures followed before the FCC.

C. Verizon's Ability to Review and Manipulate Underlying Customer Location Data In This Proceeding Matches the Procedures Deemed Adequate and Appropriate by the FCC.

The manner of access and review described above mirrors the access to the same information that the FCC deemed to be appropriate and more than adequate as it developed a forward-looking cost model based on the HAI methodology for universal service fund purposes.

The FCC adopted a variant of the HAI model as an appropriate means to estimate forward-looking costs, in the outside plant component of its universal service synthesis model. Like the HAI model, this synthesis model: (i) "allows the user to estimate the cost of building a telephone network to serve subscribers in their actual geographic locations, to the extent these

locations are known," and otherwise to estimate those locations using a "road surrogate" method; (ii) "employs a clustering algorithm to group customers into serving areas in an efficient manner that takes into consideration relevant engineering constraints," and (iii) then "designs outside plant to the customer locations" using "a number of cost minimization principles designed to determine the most cost-effective technology to be used under a variety of circumstances, such as varying terrain and density." *FCC's Tenth USF Order* ¶¶ 17-18; *cf.* Mercer Direct at 38-49, and Ex. RAM-2, HAI 5.2a-MA Model Description at 24-53.

Ultimately, the FCC chose not to run the model using known geocoded locations, and instead used only the road surrogate method to map locations of all residential and business customers within each Census Block. *FCC's Tenth USF Order* ¶¶ 36-47. (The HAI model can similarly run on such a 100 percent surrogate database, should the Department so order, albeit at the expense of not taking full advantage of a great deal of more precise customer location information.) But the road surrogate method of estimating customer locations starts with the same geocoded data to estimate the number of customer locations within each Census Block and wire center, and does so using the same NALM developed and owned by PNR (now TNS). *Id.* ¶ 51. Thus, the customer location information that is the subject of Verizon's appeal is the same customer location information that was used by the FCC to run its synthesis model.

None of the underlying customer location information that Verizon claims it wants to review was ever placed on the public record in the FCC's USF proceeding. Instead, parties were given the opportunity to review this data at PNR. *FCC's Tenth USF Order* ¶ 47 n.474. The FCC described this access as follows:

> Some commenters also contend that the PNR National Access Line Model has not been made adequately available for review. As noted above, the National Access Line Model is a multi-step process used to develop customer location counts and demand and associate those customer locations with Census Blocks and wire

> centers. As a result, PNR contends that the National Access Line Model cannot be provided in a single, uniform format. The HAI sponsors have provided a description of the National Access Line Model process in the HAI model documentation. PNR has made the National Access Line Model process available for review through on-site examination and has provided more detailed explanation of the National Access Line Model upon request from interested parties. PNR notes that several parties have taken advantage of this opportunity. PNR also notes that the National Access Line Model computer code is available for review on-site. PNR also has filed with the Commission the complete output of the National Access Line Model process.

FCC's Tenth USF Order ¶ 56 (footnotes omitted). This matches what AT&T has done in this proceeding. AT&T has also provided a description of the NALM in the HAI model documentation, has filed with the Department the output of the NALM for Massachusetts, and has offered to help Verizon (and any other interested party) review the NALM and underlying data through TNS (formerly PNR).

The FCC rejected assertions that such access was inadequate. In the words of the FCC:

> We also find that interested parties have been given a reasonable opportunity to review and understand the National Access Line Model process for developing customer counts. The HAI sponsors have documented the process by which the National Access Line Model derives customer location counts and PNR has made itself available to respond to inquiries from interested parties. The National Access Line Model is a commercially licensed product developed by PNR, and **we do not find it unreasonable for PNR to place some restriction on its distribution to the public.** In addition, we agree that the National Access Line Model is more correctly characterized as a process consisting of several steps, and therefore **we find no practical alternative to on-site review**. Even if it were possible for PNR to turn the National Access Line Model over to the public in a single format, we believe that this would be of limited utility without a detailed explanation of the entire process. We therefore conclude that PNR has made reasonable efforts to ensure that interested parties understand the underlying process by which the National Access Line Model develops customer counts and has made that process reasonably available to interested parties. In addition, unlike the case with PNR's geocode data points, PNR's road surrogate customer location points are available for review and comparison by interested parties.

FCC's Tenth USF Order ¶ 60 (emphasis added).

The Hearing Officer directed AT&T to "facilitate any arrangements necessary for Verizon" to have the same opportunity to "review and comment" upon customer location data

and calculations used as inputs to the HAI model, in the same manner as such access was provided in the FCC's USF proceeding. *Hearing Officer's Ruling* at 12. AT&T remains prepared to do so, as it has throughout this proceeding. Tellingly, Verizon has opted not to pursue this opportunity, though it has been available since May 8. Verizon's assertion that the ability to review and analyze this data through TNS (formerly PNR) is insufficient was rejected by the FCC, as described above, and properly rejected by the Hearing Officer.

D. It is Verizon, and Not AT&T, that Has Failed to Provide Access to the Input Data Upon Which Its Recurring Cost Model is Predicated.

1. Verizon has Refused to Make Available Key Information Upon Which its Loop Cost Model is Based.

Unlike the HAI model, Verizon's recurring cost model does not estimate outside plant costs based on the most efficient, forward-looking network that would provide service to actual customer locations. Verizon uses a much more rudimentary approach, and bases its cost estimates on the physical characteristics of its embedded network.

In particular, Verizon says that its recurring cost model is based on average loop length estimates derived from a survey of selected feeder routes by Verizon engineers, none of whom is a witness in this proceeding. The direct testimony by Verizon's recurring cost panel states that:

> The Company utilized the Loop Cost Analysis Model ("LCAM") to develop the investments and costs associated with the local loop, which is discussed below. **However, LCAM derives its loop plant characteristics from a survey of feeder route data conducted by Verizon MA's engineers.**

Verizon Direct Panel Testimony at 89 (filed May 8, 2001) (emphasis added). These "physical characteristics" for selected feeder runs are the sole basis for Verizon's estimation of average "feeder, sub-feeder and distribution length, structure and size" for the Carrier Serving Areas modeled by Verizon. *Id.* at 91. Thus, Verizon's entire loop cost model is predicated upon these engineering surveys.

AT&T requested access to the information relied upon by these unidentified engineers, in an effort to verify the accuracy of the inputs relied upon by Verizon. AT&T posed the following discovery request to Verizon:

> ATT-VZ 14-32: Provide copies of all materials (plats, network diagrams, demand forecasts, engineering guidelines, maps, etc.) (in both electronic and hard copy format) reviewed or otherwise used by the Verizon-MA engineers in conducting the survey of feeder route data.

Verizon refused to do so. Its response to ATT-VZ 14-32 reads as follows:

> Verizon MA objects to this request on the grounds that the request is overly broad and would be unduly burdensome to respond. The information requested resides at multiple Outside Plant Engineering locations and would be extremely burdensome to respond to.

AT&T followed up by asking Verizon to provide at least some of the relevant documentation, in a letter dated July 3, 2001. Paragraph 11 of AT&T's letter stated as follows:

> Verizon has refused to provide any of the documentation sought in ATT-VZ 14-32, which asked for documentation used by Verizon's engineers in conducting the survey of feeder route data. Verizon said that it would be "unduly burdensome" to provide all of the requested documentation, but it made no effort to define a subset of documentation that it could provide. According to Verizon's Direct Panel Testimony at page 89, the feeder lengths from which its proposed loop costs are derived are based upon "a survey of feeder route data conducted by Verizon MA's engineers." AT&T is entitled to obtain documentary evidence sufficient to permit it and the Department to test the validity of the survey results and feeder length estimates upon which Verizon basis its loop cost study. Please provide a supplemental response that provides such documentation.

Verizon again refused to provide any of the inputs purportedly used in its secret survey of feeder lengths. By letter dated July 10, 2001, Verizon responded as follows:

> Verizon MA objected to the request in that it is overly broad and would be unduly burdensome to respond. Your letter requests a supplemental response that would provide the documentation. Verizon MA renews its objection because of the extraordinary breadth of the request and the burden to respond. As you indicated in your letter, the feeder lengths used in the cost study was based on a survey of feeder loop data conducted by Verizon MA engineers. Data that would have been reviewed and/or served as the basis of the survey responses by Verizon MA engineers, include plats, maps, diagrams, etc. of Verizon MA's outside plant. To produce such documents would require Verizon MA to go back to each of the

> engineers and have them reconstruct their review and knowledge of the network and identify scores of documents that may have been considered by them in responding to the survey. This undertaking would be enormous and any probative value of the results would be overwhelmed by the burden it would place on Verizon MA to respond.

In other words, Verizon has unilaterally and absolutely refused to provide access to any of the information that it purportedly used to come up with the mysterious inputs upon which Verizon's loop length and cost estimates are based.

Thus, key information used as inputs to Verizon's recurring cost model has not been made available for public review in this proceeding. By contrast, the HAI Model does not use loop lengths calculated by anonymous engineers as inputs to the model, but instead calculates loop lengths within the model and provides them as outputs of the model. The data and processes by which loop lengths are calculated are fully described in the model documentation and the results can be observed in the outputs of the model.

2. Verizon has Refused to Make Available Key Information Upon Which its Switching and Digital Circuit Models are Based.

Verizon has also failed to make available for public review key information upon which its EF&I and power factors are based. These factors greatly inflate Verizon's proposed switching and digital circuit costs, and thus Verizon's refusal to provide access to data that underlies key inputs constitutes a significant failure of proof by Verizon.

(a) Verizon has withheld the data underlying its EF&I factor.

Verizon's digital switching and digital circuit cost models use a so-called Engineer, Furnish & Install ("EF&I") factor. Verizon states that this factor was:

> developed on the basis of the data contained within the Company's Detailed Continuing Property Record ('DCPR'). Specifically, the total installed investment for hardwired equipment installed in calendar year 1998 was added to the plug-in equipment installed in calendar year 1998. (This was the latest year for which data were available at the time that the studies were done.) The sum of the installed investments was then divided by the sum of the material-only

> investments of the same equipment, also derived from DCPR. This yielded the final EF&I factor, which represents the relationship of TCI investment to materials investment for equipment in the future based on current relationships.

Verizon's Direct Panel Testimony at 29.

In an effort to test the extent to which Verizon's historic, embedded costs reflected in its DCPR deviate from forward-looking costs calculated in accord with TELRIC, AT&T sought more information regarding that data source. In particular AT&T posed the following two discovery requests:

> ATT-VZ 14-10: Referring to page 29 of the Verizon-MA Panel testimony, provide details of the ten largest hardwired equipment installations for 1998 included in the Verizon-MA Detailed Continuing Property Records ("DCPR") database upon which forward-looking EF&I were developed.
>
> ATT-VZ 14-11: Referring to page 29 of the Verizon-MA Panel testimony, provide details of the ten largest plug-in equipment installations for 1998 included in the Verizon-MA Detailed Continuing Property Records ("DCPR") database upon which forward-looking EF&I were developed.

Verizon flatly refused to provide the requested information. Verizon's only response to each of these requests was the following, identical objection:

> The requested data is not readily available. A burdensome special study would be required to develop this data.

In sum, Verizon has refused to make available for review by the Department and the parties underlying information needed to verify the suitability of the data used by Verizon to create its EF&I factors.

(b) Verizon has similarly withheld the data underlying its power factor.

Verizon's digital switching and digital circuit cost estimates are also based on a so-called power factor. *See* Verizon's Direct Panel Testimony at 32. Verizon describes the derivation of this factor as follows:

> The factors were developed on the basis of the data contained within the DCPR database. The installed investment of power equipment placed in 1998 was identified by the type of equipment it is supporting. Next, the total installed investment for hardwired central office equipment installed in calendar year 1998 was added to the central office plug-in equipment installed in calendar year 1998. The sum of the installed central office investments was then divided into the installed investment of power equipment to yield the relevant power factors.

Id. at 33. In an effort to test the suitability of this calculation for present purposes, AT&T posed the following two discovery requests:

> ATT-VZ 14-14: Referring to page 33 of the Verizon-MA Panel testimony, provide details of the ten largest hardwired equipment installations for 1998 included in the Verizon-MA Detailed Continuing Property Records ("DCPR") database upon which forward-looking power factors were developed.
>
> ATT-VZ 14-15: Referring to page 33 of the Verizon-MA Panel testimony, provide details of the ten largest plug-in equipment installations for 1998 included in the Verizon-MA Detailed Continuing Property Records ("DCPR") database upon which forward-looking power factors were developed.

Once again, Verizon flatly refused to provide the requested information, instead supplying only the same objection:

> The requested data is not readily available. A burdensome special study would be required to develop this data.

In sum, Verizon has refused to make available for review by the Department and the parties underlying information needed to verify the suitability of the data used by Verizon to create its power factors.

III. VERIZON'S MOTION TO STRIKE THE HAI 5.2A-MA MODEL IS WITHOUT MERIT. ALTERNATIVELY, IF THE GROUNDS POSITED BY VERIZON WERE ACCEPTED, THEN VERIZON'S RECURRING COST MODEL SHOULD ALSO BE STRICKEN AND NOT CONSIDERED, SINCE VERIZON HAS REFUSED TO PROVIDE ACCESS TO FULL INFORMATION REGARDING THE MODEL INPUTS USED BY VERIZON.

In addition to its motion to compel, Verizon has also asked the Department to strike the HAI 5.2a-MA model from this proceeding without ever considering it on the merits or comparing it to the inferior approach taken in Verizon's recurring cost model. Verizon offers no

basis or precedent for summarily ignoring compelling evidence. For the reasons discussed in Section II above, Verizon's motion to strike is without merit and should be denied.

In the alternative, however, the Department should strike Verizon's recurring cost model and all related testimony, exhibits, and workpapers. As demonstrated above, it is Verizon – and not AT&T – that has failed to provide the Department and the parties with access to the input data upon which its model is built. If the logic of Verizon's motion to strike were to be accepted by the Department, that logic would compel that Verizon's recurring cost model be struck on the ground that Verizon has failed to present an adequate *prima facie* case in support of that model.

Conclusion.

For the reasons stated above, AT&T respectfully requests that the Department deny Verizon's appeal and its motion to strike the HAI 5.2a-MA model. In the alternative, AT&T requests that the Department strike Verizon's recurring cost model on the ground that Verizon's failure to supply all input data means that it has not presented an adequate *prima facie* case in support of that model.

Respectfully submitted,

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